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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,941	08/28/2006	Shunji Sekiguchi	295473US0PCT	2658

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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04/20/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/590,941	Applicant(s) SEKIGUCHI ET AL.	
	Examiner Irina S. Zemel	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 10, 11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 10, 11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 10-11, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Usui et al U.S. Patent 6,800,688 in view of Komoto et al U.S. Patent 7,208,552 .

The rejection stands as per reasons of record.

Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Usui et al U.S. Patent 6,800,688 in view of Komoto et al U.S. Patent 7,208,552 as applied to claim 2 above, and further in view of Kimura et al U.S. Patent 5,539,043.

The rejection stands as per reasons of record.

Response to Arguments

Applicant's arguments filed 12-19-2008 with respect of rejection of claims as being unpatentable over Usui in view of Komoto (or in view of Komoto and further in view of Kimura) have been fully considered but they are not persuasive. The applicants argue that the primary reference fails to teach metallocene bases polyolefins. The examiner agrees with this statement. However, the examiner disagrees with the applicants statement that "neither Usui nor Komoto disclose or suggest the use of a metallocene catalyst as claimed the combination of those references fails to suggest

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that the combination of the metallocene catalyst and the specific graft amount specified in Claim 2 would provide the beneficial effects shown in the specification.” The only difference between the Usui reference and the claimed invention is use of metallocene polymer, and the secondary reference was applied precisely for such teachings, that when metallocene polyolefin is used as the base polymer to obtain modified polyolefins, some beneficial effects are achieved. Thus, the statement that the secondary reference does not teach metallocene catalyst is simply incorrect.

The applicants further state that some beneficial results are obtained by using metallocene based polyolefin as evident from NOW comparative examples 1 and 11. This statement is very puzzling as the illustrative examples 1 and 11 referenced by the applicants as "comparative with the cancellation of claim 1" are, in fact, use metallocene polypropylene. The difference in those examples and the claimed invention of claim 2 is not the metallocene catalyst, but the presence of the second grafting component. Such second grafting component (methacrylic acid ester) is expressly disclosed in the primary reference as discussed in the previous office action. Further, it is not even clear what those illustrative (now comparative examples) are being compared to and what exactly in “beneficially improved”.

In addition, the following is noted - the secondary reference expressly discloses some beneficial effects of using metallocene based polyolefin as compared with conventional Ziegler-Natta based polyolefin, including better adhesion properties; “beneficial effects” are not necessarily “unexpected results” that may, in some cases, rebut the established prima facie case of obviousness; and inventive features that can

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be attributed to the beneficial results that the applicants discuss in their remarks (the differences between the claimed invention and the prior art), obviously, were not even recognized as critical since the illustrative examples that were regarded as within the scope of the applicants invention are now comparative results that are relied upon for showing the alleged beneficial effects.

Therefore, the rejection of all pending claims stands as per reasons of record.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/
Primary Examiner, Art Unit 1796

Irina S. Zemel
Primary Examiner
Art Unit 1796

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